IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.377 OF 1990

The State of Maharashtra .. Appellant

Versus

1. Balu Dattatray Korane
2. Maruti Dattatray Korane
3. Shivaji Pandurang Korane .. Respondents (Org.Accd.)

Shri P.S. Hingorani APP for the State

Shri Indrajeet Joshi, Adv. for Respondents

CORAM : D.G. DESHPANDE

AND S.R. SATHE,JJ.

DATE : 27/02/2007

ORAL ORDER :- (PER D.G. DESHPANDE,J.)

1. Shri P.S.Hingorani, learned APP and Shri Indrajeet Joshi, Advocate for the accused present.

2. We heard this matter earlier. At that time, Advocate Shri Indrajeet Joshi had pointed out that

a case was filed against the complainant in this case on the basis of the complaint filed by the present accused. But that case was compromised between the parties as the parties were relatives. The accused in that case then came to be acquitted and State did not file appeal against the said order of acquittal.

3. Shri Indrajeet Joshi also made a statement that since the incident in question is of 1989 and after the appeal against the acquittal of accused in other case (who are the complainants in the present case), both the parties were living peacefully and without any further trouble to anybody.

4. We, therefore, directed Shri Indrajeet Joshi, Advocate for the Respondent to file an affidavit in this regard. Therefore, accordingly now an affidavit is tendered before us. It is on a non judicial stamp of Rs.100/-. It is sworn and done by Dilip Tukaram Korane, resident of Mahalwadi, Taluka Bhudargad, District Kolhapur, who is the original complainant in the present case. He is identified by his Advocate and it is duly sworn before the Assistant Superintendent, Civil Court, Junior Division, Gargoti, District Kolhapur. We have taken the said affidavit on record and marked

'X' for identification. The affidavit supports the contention of Advocate Shri Indrajeet Joshi, that parties are not loggerheads any more. They are living happily since last about 18/20 years.

5. So far as this matter is concerned, this is an appeal against the acquittal. We heard the learned A.P.P. and Shri Indrajeet Joshi. We do not find that judgment of the acquittal is perverse. Out of two views, the view adopted by the trial Court is reasonable, just and proper and therefore no interference is called for in the order of acquittal. The appeal is, therefore, dismissed.

(D.G.DESHPANDE,J.)

(S.R.SATHE,J.)

2. When we earlier heard, Shri Indrajeet Joshi pointed out that the case which was filed on the complaint of the complainant and the accused were prosecuted and that case was compromised between them afterwards. The accused and the complainant are relatives. The accused in this case were acquitted by the trial Court and therefore the State had filed this appeal.

3. The learned Advocate for the Respondents also made a statement that since the incident in question has taken place in the year 1988 and after the acquittal of the accused, the accused and complainant are living peacefully without any further trouble and the matter is compromised between them.

4. So far as the present status is concerned, we directed the APP to file affidavit of the complainant in this behalf and accordingly he has

tendered before this court an affidavit on non Judicial stamp of Rs.100/- before us, filed by Dilip Tukaram Korane, resident of Mahalwadi, Tal. Bhudargad, District Kolhapur, original complainant, through his Advocate M.P.Patil, which was duly sworn before the Assistant Superintendent, Civil Court, Junior Division, Gargoti, District Kolahpur.

5. The affidavit of Dilip Tukaram Korane, original complainant, is taken on record and marked 'X' for identification.

6. Even otherwise we were taken through the record by the learned APP, since this is an appeal against acquittal. But we do not find that the judgment of the trial Court is perverse. Out of the two views possible, the view adopted by the trial Court is reasonable, just and proper, therefore also no interference is called for with the order of acquittal passed by the Assistant Sessions Judge, Kolhapur in Sessions Case No.115 of 1988. Therefore, this appeal is dismissed.

(D.G.DESHPANDE,J.)

(S.R.SATHE, J.)